

Senate Bill 408

By: Senators Hill of the 32nd, Rogers of the 21st and Smith of the 52nd

**AS PASSED SENATE**

**A BILL TO BE ENTITLED**

**AN ACT**

To amend Code Section 24-10-130 of the Official Code of Georgia Annotated, relating to when depositions for preservation of evidence in criminal proceedings may be taken, so as to provide for the preservation of evidence of certain nationals of foreign states who have not been lawfully admitted for permanent residence in the United States; to provide for other matters relative to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 24-10-130 of the Official Code of Georgia Annotated, relating to when depositions for preservation of evidence in criminal proceedings may be taken, is amended by striking subsection (b) and inserting in its place a new subsection (b) to read as follows:

"(b) The court shall not order the taking of the witness's testimony, except as provided in paragraph (2) of subsection (a) of this Code section, unless it appears to the satisfaction of the court that the testimony of the witness is material to the case and the witness:

(1) Is in imminent danger of death;

(2) Has been threatened with death or great bodily harm because of the witness's status as a potential witness in a criminal trial or proceeding;

(3) Is about to leave the state and there are reasonable grounds to believe that such witness will be unable to attend the trial;

(4) Is so sick or infirm as to afford reasonable grounds to believe that such witness will be unable to attend the trial; ~~or~~

(5) Is being detained as a material witness and there are reasonable grounds to believe that the witness will flee if released from detention; or

(6) Is a national of a foreign state who has not been lawfully admitted for permanent residence in the United States. For purposes of this paragraph, the terms 'national,'

1 'foreign state,' and 'lawfully admitted for permanent residence' shall have the meaning as  
2 provided in 8 U.S.C. Section 1101."

3 **SECTION 2.**

4 This Act shall become effective upon its approval by the Governor or upon its becoming law  
5 without such approval.

6 **SECTION 3.**

7 All laws and parts of laws in conflict with this Act are repealed.